

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

-
WRIT PETITION NO : 3429 of 1997

Between:

R. Subbamanyam Naidu S/o. Gangaiah Naidu
r/o. Ontelavaripalli, Karvetinagar(M) Chittoor dist.

..... PETITIONER

AND

1. The Special Commissioner, Land Revenue Nampally Station Road, Hyderabad.
2. The Joint Collector, Chittoor, District Chittoor.
3. The Revenue Divisional Officer, Chittoor Chittoor Dist.
4. The Mandal Revenue Officer, Karvetinagar Mandal. Chittoor Dist.
5. Ratnavelu Chetty (Died) s/o. R. Muniswamy
Vathuluru Village, Karvetinagar Mandal, Chittoor Dist.
6. R. Yasodamma W/o. Ratnavelu Chetty, Vathuluru Village, Karvetinagar Mandal Chittoor Dist.
7. R. Venu Chetty S/o. Ratnavelu Chetty, Vathuluru Village, Karvetinagar Mandal Chittoor Dist.
8. R. Guru Swamy Chetty S/o. Ratnavelu Chetty
Vathuluru Village, Karvetinagar Mandal Chittoor Dist.

9. R. Sankara Chetty S/o. Ratnavelu Chetty
Vathuluru Village, Karvetinagar Mandal Chittoor Dist.

RR 6 to 9 brought on record as per court order dt. 22/6/98 in WPMP
37398/97 as LR's of Deceased R5.

.....RESPONDENTS

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Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Certiorari calling for the records relating to the order of the 1st respondent in proceedings No. BCW 3/1126/92 dt. 8-10-96 and quash the same as arbitrary, illegal and without jurisdiction.

For the Petitioner: MR.M.P.CHANDRAMOULI

For the Respondent No.1 TO 4: GP FOR ASSIGNMENT

FOR THE RESPONDENTS 6 TO 9: Mr C.M.R.Velu

The Court Made the Following:

ORAL ORDER:

1. This Writ Petition is filed by the petitioner aggrieved by the order of the first respondent-Special Commissioner, Land Revenue dated 08.10.1996, under which the revision filed by the petitioner was rejected, and a direction was given to the lower authorities to consider the claim of respondent No. 5 for assignment of the land in question.

2. According to the petitioner, as he was a landless poor person an extent of Ac.3.00 of land in Survey No. 9/14 to 9/16 of K.M.Puram Village was assigned to him by grant of 'D-Form' patta, dated 25.10.1982. Subsequently, it appears that the petitioner did not cultivate the land, and therefore, the Mandal Revenue Officer, Karvetinagar initiated proceedings in ROC No.A2/589/86 dated 02.11.1987 and after conducting necessary enquiry passed orders on 24.01.1987 recommending for cancellation of the 'D-Form' patta granted in favour of the petitioner as well as for resumption of the land to the Government. The said proceedings were assailed by the petitioner before the Revenue Divisional Officer by filing an appeal. The Revenue Divisional Officer, after conducting necessary enquiry, set aside the order of

the Mandal Revenue Officer and confirmed the original assignment. The said order was assailed in revision by the 5th respondent before Joint Collector, and the Joint Collector after consideration of the rival contentions passed an order directing the lower authorities to consider

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the claims of the petitioner as well as the 5th respondent for assignment to an extent of A.3.00 referred to earlier after examining the eligibility of their claims. The said order was further assailed before the Commissioner by way of Revision. The Commissioner, after hearing both sides, recorded a categorical finding that the petitioner did not cultivate the land after assignment within a period of three years. Further the said land was alienated by the petitioner in favour of the fifth respondent for a sum of Rs.5000/- and it is only the fifth respondent, who has been cultivating the said land. Further, the petitioner was not residing in the village where the land is situated, as he was employed in a sugar factory and staying at Kalur village of Vadamalpet Mandal. In the light of the said findings the Revision filed by the petitioner was dismissed with a further direction to the lower authorities to consider the claim of the fifth respondent and to assign the land, if he is found eligible. Aggrieved by the said order the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner has reiterated his contention that the petitioner is a landless poor and is a resident of the village where the land is situated, and has been cultivating the land and he did not alienate the same to any person, muchless to the fifth respondent. Therefore, the order of the Commissioner is illegal and unsustainable.

4. The learned Government Pleader appearing for the official respondents opposed the said contention and supported the order of the Commissioner.

5. The counsel appearing for the unofficial respondent also supported the order of the Commissioner.

6. Heard both sides and considered the material on record.

7. A perusal of the record clearly shows that a categorical finding was recorded against the petitioner that he failed to cultivate the land, after the same was assigned in his favour. The material also clearly shows that if the petitioner had cultivated the land at any point of time, he would have produced documentary evidence showing that he is cultivating the land. In the absence of any such evidence, the Commissioner was justified in concluding that the petitioner did not cultivate the land. In addition, admittedly the petitioner is an employee of S.V.Sugar Mills and is residing at Kalur Village at Vadamalpet Mandal. This also clearly supports the finding of the Commissioner that the petitioner was not residing in the village and was not cultivating the land. Apart from that, there is another finding that the petitioner has alienated the land to the fifth respondent for a sum of Rs.5,000/- and it is only the fifth respondent, who has been carrying on the cultivation. Apart from the above, the petitioner filed a civil suit against the fifth respondent seeking injunction, and the civil court has recorded a

categorical finding that the petitioner/plaintiff failed to produce any evidence showing that he has been in possession of the land in question. In the light of the above findings recorded by the Civil Court as well as the Revenue

Authorities, the petitioner has no case warranting interfering with the impugned order of the Commissioner.

8. In the result, the petition is dismissed as devoid of any merits.

22-06-2004

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Special Commissioner, Land Revenue Nampally Station Road, Hyderabad.
2. The Joint Collector, Chittoor, Dist Chittoor.
3. The Revenue Divisional Officer, Chittoor Chittoor Dist.
4. The Mandal Revenue Officer, Karvetinagar Mandal. Chittoor Dist.
5. 2 CCs to GP for Assignment, High Court of A.P., Hyderabad (OUT)
6. 2 CD copies

kvrn/kvh